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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,935	10/02/2003	David Bar-Or	4172-81	7439

22442 7590 04/17/2007
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EXAMINER

JUEDES, AMY E

ART UNIT	PAPER NUMBER
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1644

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
31 DAYS	04/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/680,935	Applicant(s) BAR-OR ET AL.	
	Examiner Amy E. Juedes, Ph.D.	Art Unit 1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 164, 177, 221, 231 and 284-306 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 164, 177, 221, 231, and 284-306 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) ☐ Notice of References Cited (PTO-892) | 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) ☐ Notice of Informal Patent Application |
| 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) ☐ Other: _____ |

Art Unit: 1644

DETAILED ACTION

1. Applicant's amendment, filed 1/23/07, is acknowledged.

Claims 1-163, 165-176, 178-220, 222-230, and 232-283 have been cancelled.

Claims 284-306 have been added.

Claims 164, 177, 221, 231, and 284-306 are pending.

2. Applicant's election without traverse of group VII, drawn to a binding partner specific for a cysteinylated protein and kits containing said binding partner, claims 164, 177, 221, 231, and 284-306, in the reply filed on 1/23/07 is acknowledged.

3. Applicant's amendment adding claims 284-306 has necessitated a supplemental restriction requirement outlined below.

4. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

Claims 164, 177, 221, 231, 284, 287-292, 297-299, and 302-304 link(s) inventions I-II. The restriction requirement among the linked inventions is subject to the nonallowance of the linking claim(s), 164, 177, 221, 231, 284, 287-292, 297-299, and 302-304. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

I. Claims 285, 293, 294, 300, and 305, drawn to a binding partner specific for a cysteinylated blood protein, and kits comprising said binding partner, wherein the binding partner is an antibody; classified in Class 530, subclass 387.1.

Art Unit: 1644

II. Claims 286, 295-296, 301, 306, drawn to a binding partner specific for a cysteinylated blood protein, and kits comprising said binding partner, wherein the binding partner is an aptamer; classified in Class 536, subclass 23.1.

5. Groups I and II are different products. An antibody is a protein, while an aptamer is a nucleic acid. Therefore, the products are distinct since they have different structures and physiochemical properties.

6. These inventions are distinct for the reasons given above. In addition, they have acquired a separate status in the art as shown by their recognized divergent subject matter. Further, a different field of search would be required based upon the structurally distinct products recited. Therefore restriction for examination purposes as indicated is proper.

Species Election

7. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

8. Irrespective of the group elected, applicant is required to:

elect a specific kit comprising a single specific binding partner, or a specific combination of binding partners.

The species are independent or distinct because the kits comprise different binding partners with different physiochemical properties.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Art Unit: 1644

9. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Amy E. Juedes whose telephone number is 571-272-4471. The examiner can normally be reached on 8am - 5pm from Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Amy E. Juedes, Ph.D.
Patent Examiner
Technology Center 1600


4/13/07
G.R. EWOLDT, PH.D.
PRIMARY EXAMINER